

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

IN RE:	§ CASE NUMBER: 18-42230
GEORGE DALE WIGINGTON	§
dba WYLIE INDUSTRIES	§
dba WYLIE INVESTMENT GROUP,	
<i>Debtor</i>	CHAPTER 13

GEORGE DALE WIGINGTON,	§
<i>Plaintiff</i>	§
	§
v.	§ ADVERSARY NO. 19-04074
	§
NATIONSTAR MORTGAGE LLC D/B/A	§
MR. COOPER and SELECT PORTFOLIO	§
SERVICING, INC.,	§
<i>Defendants</i>	§

ORDER ON MR. COOPER'S MOTION FOR PARTIAL DISMISSAL UNDER RULE 12(b)(6); AND MR. COOPER'S MOTION FOR MORE DEFINITE STATEMENT; AND SPS' MOTION TO DISMISS ALL CAUSES OF ACTION UNDER RULE 12(b)(6) [DOCKET NOS. 79, 80 & 81]

On December 1, 2020, this Court conducted a hearing on the Motion to Dismiss all causes of action in the Second Amended Complaint under Federal Rules of Civil Procedure Rule 12(b)(6) filed by Select Portfolio Servicing, Inc. ("SPS") (Docket No. 79), "Mr. Cooper's Rule 12(b)(6) Motion to Dismiss Plaintiff's Amended Objection to Proof of Claim Included in the Second Amended Complaint" filed by Nationstar Mortgage LLC dba Mr. Cooper ("Mr. Cooper") on October 15, 2020 (Docket No. 80), and "Mr. Cooper's Motion for a More Definite Statement on Plaintiff's Second Amended Complaint – Part V" filed by Mr. Cooper on October 15, 2020 (Docket No. 81). On consideration of each motion, the objections filed by Plaintiff George Dale Wigington on November 30, 2020, (Docket No. 88, 89 & 90), and the arguments of counsel, it is

ORDERED that Mr. Cooper's Motion to Dismiss the objection to claim contained in Plaintiff's Second Amended Complaint as to Nationstar Mortgage LLC dba Mr. Cooper is granted in part and denied in part. The Second Amended Complaint is dismissed without prejudice to amendment. Plaintiff may file a third amended complaint against Mr. Cooper with respect to the objection to claim by not later than December 15, 2020, but only to the extent that such an objection is limited to and is consistent with this Court's Memorandum Opinion entered August 10, 2020 (Docket No. 65) and this Court's Amended Judgment entered September 14, 2020 (Docket No. 75). If Plaintiff fails to timely file a third amended complaint, this adversary proceeding may be dismissed. If Plaintiff timely files a third amended complaint, Mr. Cooper may file an answer or a response under Rule 12 within 21 days. Additionally, if this Court finds that the third amended complaint is not limited consistent with the Memorandum Opinion and Amended Judgment, then this Court may dismiss this adversary proceeding. It is

FURTHER ORDERED that Mr. Cooper's Motion for More Definite Statement is granted in part and denied in part. Plaintiff may file a third amended complaint by not later than December 15, 2020, but only to the extent that the complaint is limited to and is consistent with this Court's Memorandum Opinion entered August 10, 2020 (Docket No. 65) and this Court's Amended Judgment entered September 14, 2020 (Docket No. 75). If Plaintiff timely files a third amended complaint, Mr. Cooper may file an answer or a response under Rule 12 within 21 days. Additionally, if this Court finds that the third amended complaint is not limited consistent with the Memorandum Opinion and Amended Judgment, then this Court may dismiss this adversary proceeding. It is

ORDERED that SPS' Motion to Dismiss all causes of action raised in Plaintiff's Second Amended Complaint is granted in part and denied in part. The Second Amended Complaint is

dismissed without prejudice to amendment. Plaintiff may file a third amended by not later than December 15, 2020, but only to the extent that the complaint is limited to and is consistent with this Court's Memorandum Opinion entered August 10, 2020 (Docket No. 65) and this Court's Amended Judgment entered September 14, 2020 (Docket No. 75). If Plaintiff timely files a third amended complaint, SPS may file an answer or a response under Rule 12 within 21 days. Additionally, if this Court finds that the third amended complaint is not limited consistent with the Memorandum Opinion and Amended Judgment, then this Court may dismiss this adversary proceeding.

Signed on 12/11/2020

Brenda T. Rhoades SR
HONORABLE BRENDA T. RHOADES,
UNITED STATES BANKRUPTCY JUDGE